

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-0970.M5**

MDR Tracking Number: M5-04-3171-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on May 21, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above was not found to be medically necessary, reimbursement for dates of service from 10-21-03 to 01-08-04 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 27<sup>th</sup> day of August 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

August 18, 2004

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

Re: Medical Dispute Resolution  
MDR #: M5-04-3171-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.:

Dear:

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation and is currently on the TWCC Approved Doctor List.

## **REVIEWER'S REPORT**

### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: letter of medical necessity, office notes, physical therapy notes and FCE.

Information provided by Respondent: correspondence and designated doctor exam.

Information provided by Orthopedic Surgeon: office notes and operative report.

Information provided by another physician (specialty unknown): office notes.

### **Clinical History:**

This gentleman was injured during his usual occupation. He had low back pain with a radicular pattern due to a work-related injury on \_\_\_. He had back surgery with lumbar decompression L4-L5 and L5-S1.

The records state that on June 10, 2003, three-level laminectomy and decompression was performed. It also states that the procedure was done on June 11<sup>th</sup>. At any rate, it was somewhere around June 10th or 11th when he had his back surgery. He did not get appreciably better. Then, on October 21, 2003 through January 8, 2004, he was placed on in a work hardening program.

The best that can be determined from the record (therapist's notes) there was no effect from this work hardening program one way or the other, other than his endurance got somewhat better.

### **DISPUTED SERVICES:**

The disputed services are for the medical necessity for the work-hardening program from October 21, 2003 through January 8, 2004.

**Disputed Services:**

Work hardening program from 10/21/03 through 01/08/04.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the work hardening program in dispute was not medically necessary in this case.

**Rationale:**

The records provided for review document no goals other than to generally increase the patient's endurance. Evidently, the hope was that if his endurance improved, he would then be able to look for a job. The psychological evaluations that have to be considered indicate that this gentleman had other than just physical problems.

The work hardening program addressed these, and one could postulate that addressing his non-physical problems could perhaps get him back to work sooner. It is very difficult to find the established goals and how they were met.

Generally, it is thought that any exercise program, whatever the type and whatever specialty is involved, has to be goal-directed. This is simply not a goal-directed program. The reviewer concluded that the work hardening program was not in response to the patient's physical injuries. No purpose to the work-hardening program, which was done one year after the patient's injury and approximately four months after his surgery.

The reviewer concluded that the work hardening program was not a reasonable and necessary part of the patient's therapy. It may have had the usual benefits of physical exercise; however, it really was not goal-oriented in order to harden him for any occupation.